Brazil

Rio de Janeiro 2003

Candelária and Vigário Geral 10 years on

Amnesty International

Cover image: An image of violence in Rio symbolised in this painting by a graffiti artist from the Grupo Cultural Afroreggae. The split face depicts a city divided by poverty and violence. Grupo Cultural Afroreggae is an NGO that was established by young residents of Vigário Geral in 1993, the year the massacre took place. The NGO aims to give people from Rio's poorest areas, especially children and adolescents, a cultural focus and training in areas such as visual and performance arts and music in order to help them escape from the cycle of crime and violence. © Marcio Bragga

[EMBARGOED FOR: 28 August 2003] Public

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Rio de Janeiro 2003:

Candelária and Vigário Geral 10 years on

August 2003

SUMMARY

AI Index: AMR 19/015/2003

Distr: SC/CO

The massacres of Vigário Geral and Candelária, which took place in Rio de Janeiro in 1993, appaled the world. The shock of the brutal slaughter of unarmed, defenceless and innocent civilians and children was made all the worse when evidence emerged that both massacres had been carried out by members of Rio's Military Police force, the very individuals paid, trained and equipped by the state to protect society from crime and violence.

The two massacres, and the judicial processes that have followed, have always been monitored closely by Amnesty International. They are not only cases that are international symbols for police violence and violence against children, but they also represent many of the problems related to prosecuting human rights violations in Brazil, and the resulting impunity enjoyed by those who commit them. Out of the fifty military policemen accused of involvement in the Vigário Geral killings, only two are in prison. None of the survivors or relatives of the victims of either massacre have yet received full compensation from the state, including Wagner dos Santos, who miraculously survived both the Candelária massacre and a further attempt on his life in December 1994.

Ten years after the massacres, Amnesty International returned to Rio to speak with relatives and representatives of those who died, and to reflect on the situation in the city today with human rights organizations, representatives of civil society and the state authorities. This report is the result of that visit.

In June 2003, Amnesty International was alarmed to discover that, although no individual massacres by police on the scale of Candelária and Vigário Geral are believed to have taken place since then, increasing numbers of unarmed civilians die at the hands of the city's police forces each year. Amnesty International also documented substantial evidence that the city's poorest communities are the victims of a violent and discriminatory public policing policy.

What is more, Amnesty International was extremely concerned to learn that politicians in Rio have repeatedly made public statements in 2003 either in explicit support of police killings, or citing high levels of police killings as a necessary and unavoidable product of crime control. Such public statements seem to have been taken by police in Rio as a green light to kill in 2003, as the first four months of the year saw record numbers of deaths at police hands.

A picture of Rio de Janeiro 10 years on shows that little has changed. Amnesty International has found that to be poor in Rio de Janeiro continues to mean being trapped in a cycle of violence, with few, if any places to turn for protection. The policing of poor communities is violent, repressive and often corrupt. Not only are such communities excluded from access to fundamental economic and social rights, but their right to live in peace and security is consistently neglected, or even abused, by the state.

This page summarizes a 34-page document (17,546 words), : Rio de Janeiro 2003: Candelária and Vigário Geral 10 years on (AI Index: AMR 19/015/2003) issued by Amnesty International in August 2003. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at http://www.amnesty.org

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AI Index: AMR 19/015/2003

Embargo: 28 August 2003

Amnesty International wishes to acknowledge the following individuals and organizations:
The association of relatives and victims of the Vigário Geral massacre, relatives of victims from Borel, Senador Camará and Turano. Wagner, Patricia and Sonia dos Santos. Cristina Leonardo. Marcelo Freixo. Nicásio Lima. Dircy and Pedro da Cruz @ São Martinho. Human Rights Commission of the Rio de Janeiro State Legislative Assembly. Andressa Caldas e Sandra Carvalho @ Global Justice. Ricardo Rezende. Luke Dowdney. Cláudia Duarte. Lúcia Speed. Carlos Gaio. Marianna Olinger. Sheila Gonçalves. Marcos Rolim. José Junior. Luiz Morier. João Ripper. Ignacio Cano. Marcio Bragga. Michel Misse. José Luiz @ O Dia. Leonardo Castilho. Nucleus for Human Rights at the PUC University Rio. Torture Never Again – Rio.

"We only understand the suffering of people going through this after we've been through it ourselves, this absurdity – it's time for it to stop. We vote, we're voters, we pay for these crooks to kill our children? Do we pay for them to kill our children? I just want justice."

Mother of Leandro dos Santos Ventura, who was reportedly abducted by police in Turano, Rio de Janeiro, May 2003.

"We don't want anyone to die, but if someone has to die, it is those who are harming society."

Rio de Janeiro State Governor, May 2003

"Our 'bloco' is on the streets, and if there has to be armed conflict, there will be. If someone has to die as a result, let them die. We're going to go in hard."

Rio de Janeiro State Public Security Secretary, February 2003

"Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."

Article 6 of the International Covenant on Civil and Political Rights

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"… we couldn't say anything. I tried to argue with one saying that my son wasn't a criminal, and he didn't listen, didn't pay attention, perhaps if he had paid some attention to me, today my son wouldn't be dead. They took the life of an innocent… I can't even go to the police... how am I going to complain to the police, if it was the police that killed him?"

Father of Erivelton Pereira de Lima, reportedly killed by police in Senador Camará, Rio de Janeiro, January 2003.

"In my first twelve days in charge of the secretariat, one hundred criminals have already died in confrontations with police."

Rio de Janeiro State Public Security Secretary, May 2003

Rio de Janeiro 2003:

Candelária and Vigário Geral 10 years on

1. INTRODUCTION

It is 10 years since Brazil and the world were appaled by the horrific killings of street children as they lay sleeping outside the Candelária church in central Rio de Janeiro. Only a few weeks later the senseless murder of twenty-one residents of Vigário Geral, a community on the outskirts of the city, served to establish Rio's reputation as one of the world's most violent cities. The shock was all the greater when evidence emerged that both massacres had been carried out by members of Rio's Military Police force, the very individuals paid, trained and equipped by the state to protect society from crime and violence.

Ten years after the massacres, Amnesty International returned to Rio to speak with relatives and representatives of those who died, and to reflect on the situation in the city today with human rights organizations, representatives of civil society and the state authorities. The organization was alarmed to discover that although no individual massacres by police on the scale of Candelária and Vigário Geral are believed to have taken place since then, increasing numbers of unarmed civilians continue to die at the hands of the city's police forces each year. Amnesty International also documented substantial evidence that the city's poorest communities are the victims of a violent and discriminatory public policing policy.

Numerous current cases of victims of police violence were brought to the attention of the organization. Few, if any, of these victims had criminal records. Nearly all were from Rio's poorest communities, evidence which supports the repeated arguments heard by Amnesty International that certain social groups are the victims of repressive, violent and discriminatory policing. In June Amnesty International visited the community of Borel, where on 17 April 2003, four unarmed and defenceless young men, in the wrong place at the wrong time, were reportedly killed by

After the Vigário Geral massacre on 29 August 1993, residents lit candles by the bodies of those who had been slain in the street.

© Estefan Radovicz/O Dia

military police. Time and again, the organization met with the relatives of such victims and witnessed the terrible impact these tragedies have had on their families. Time and again the organization was informed of methods used by police to hinder investigations of such incidents and a failure by the authorities to ensure impartial and effective investigations. The cycle of impunity and neglect which surrounded the two massacres ten years ago, continues to provide the conditions under which more and more deaths at the hands of the police occur.

What is more, Amnesty International was extremely concerned to learn that elected officials in both the city administration and state government have repeatedly made public statements in 2003 either in explicit support of police killings, or citing high levels of police killings as a necessary and unavoidable product of crime control. Such public statements seem to have been taken by police in Rio as a green light to kill in 2003, as the first four months of the year saw record numbers of deaths at police hands.

In the context of writing about the "international war on terror" and its implications for human rights protection, Amnesty International's Secretary General, Irene Khan, has written that:

> ***"All too often security measures harm the innocent as well as the guilty. All too often political leaders exploit public fears and prejudices to avoid accountability and promote their own interests."*** [1]

Although Brazil is not fighting a "war against terror", for many years the country's state authorities have proclaimed a 'war against crime' with similar implications.[2] There is no doubt that Brazil suffers from extreme levels of urban violence, a fact which Amnesty International has always acknowledged and deplored. In recognition of their need to tackle serious crime, the national and international human rights community have urged the Brazilian authorities to fulfil their duty to uphold the law and to protect all the country's citizens from violence in all its forms, and thus ensure the protection of their fundamental rights.

The provision of effective and responsible policing needs implementation of long term policies, fundamental reforms and political will. During the past ten years there have been serious attempts to reform policing and public security policies in Rio de Janeiro, most notably during the period 1998-2000. These years saw a concerted effort to adopt a more progressive approach to crime fighting, which included tackling internal corruption in Rio's police. However, after some progress had been achieved, the state's Deputy Secretary for Public Security at the time, who masterminded the reforms, was dismissed, as political support for the process diminished.

Today, the former Deputy Secretary for Public Security heads the federal government's public security secretariat and is overseeing the implementation of similar reforms at a national level, a process which human rights groups are following with cautious optimism. However, Amnesty International found that in certain states it appears that such initiatives have taken second place to traditional forms of confrontational and repressive policing, which often enjoy considerable support from the voting public. For this reason it is vital that the federal government does not rest on the efforts of the National Secretariat for Public Security, but ensures that the reforms are implemented by guaranteeing the necessary political will, financial investment and public support.

The Universality of Human Rights

It is common in Brazil for those who seek to defend the rights of others to be publicly dismissed as 'defenders of criminals'. Amnesty International does not believe that the human rights of those accused or convicted of crimes are in conflict with the rights of victims of violence, nor that such rights are mutually exclusive. Society does not need to violate the rights of those suspected or guilty of crimes in order to reduce law breaking. As the South Africa Constitutional Court acknowledged in 1995 when it abolished the death penalty, "it is only if there is a willingness to protect the worst and the weakest amongst us that all of us can be secure our own rights will be protected". Amnesty International, an organization that works for the victims of violence, is sympathetic to all victims of violence and their families. Amnesty International believes itself supportive of the many professional and dedicated police officers of Brazil whose reputations are tainted by the actions of their fellow officers who are guilty of committing human rights violations.

In Rio de Janeiro the failure to build on progressive policing reforms has been reflected by a dramatic increase in fatal victims in confrontations with the police, a situation that has been bolstered by a sympathetic public discourse by the state authorities. At the end of April, Anthony Garotinho, the former state Governor and husband of the current state Governor, took over the position of State Secretary for Public Security.[3]

Police use a sheet to remove the body of a victim of a police operation in the community of Mangueira in June 2003, which lead to the death of five alleged drug traffickers. The photo was published on the front page of Rio newspaper *O Dia* which reported that residents claimed that the police arrested and handcuffed the five men before killing them.

© Severino Silva/O Dia

On 10 May he made the following announcement on his official radio program:

> ***"In my first twelve days in charge of the secretariat, one hundred criminals have already died in confrontations with police."***[4]

In support of her husband, the state Governor Rosangela Barros Assed Matheus de Oliveira, known popularly in Rio as "Rosinha", was reported to say, "We don't want anyone to die, but if someone has to die it is those who are harming society".[5]

Unfortunately, this situation is not unique to Rio de Janeiro. In São Paulo, Brazil's largest city, the state authorities appear to have adopted a similar approach to public security. The city has seen a 51 per cent rise to 435 officially recorded police killings for the first five months of this year, compared to the same period in 2002.[6] During a meeting with Amnesty International the São Paulo State Secretary for Public Security attributed this dramatic rise to the deployment of more police equipped with greater firepower, apparently characterising it as a victory in the fight against crime. However, Amnesty International consistently received denunciations of arbitrary and repressive policing against marginalised communities, as well as numerous reports of police involved in "death squad" activities.[7] Once again, a combination of latent political support and impunity appear to have created the conditions for unlawful police killings to increase drastically.

In 1993 the Candelária and Vigário Geral massacres focussed the world's attention on Rio and galvanised the city's human rights movement into action, with thousands of people marching for peace on the streets. Ten years later, in the face of a criminal justice system that has been painfully slow

in bringing those responsible before the courts, Amnesty International spoke to witnesses, survivors and relatives of victims of these massacres who have consistently suffered in their struggle to achieve justice. Despite some successful convictions, particularly with regard to the Candelária massacre, the organization is concerned that many of those who participated in or planned the killings remain unpunished, and that several may even continue to serve in the city's police forces.

In 2003, Amnesty International was dismayed to find that the police have resorted to violent and confrontational policing methods in response to public fears about high levels of violence and organised crime. With apparent political support these have resulted, once again, in the deaths of many innocent citizens.

Policing in Rio – a failure to learn the lessons of the past

Brazil has two state police forces.[8] In the state of Rio de Janeiro, as in all Brazilian states, it is the military police who are responsible for maintaining public order and the policing of public spaces, and the civil police who are responsible for investigative policing.

There is no doubt that policing in Rio de Janeiro is a dangerous and highly complex task. The majority of the 37,000 military police in Rio are, according to a government study carried out in 2002, poorly educated young, black males.[9] Military Police in Rio receive a salary of approximately R$1000 (US$325) per month and work a 24-hours-on, 72-hours-off shift system.[10] Many take on a second jobs, often as private security guards, which can place an extra burden and risk both on the police forces as institutions, and the police as individuals, as it results in many of them becoming the victims or perpetrators of further killings.

Policing the city of Rio de Janeiro can be particularly difficult, given the geography and social structures which dictate the context of crime. Heavily armed drug gangs exploit the uncharted and complex geography of *favelas*, shanty towns, to hide and do business. Consequently, police incursions to apprehend suspected drug dealers effectively become invasions, invariably targeting the whole community. However, the poor training and resources provided to the police means that they invariably lack the tools for such work, and has undoubtedly contributed to the use of excessive use of force and extrajudicial executions. Faced with extremely well-armed drug gangs and narrow winding streets such operations often end in shoot-outs, contributing to high numbers of killings, often of innocent bystanders.

Amnesty International has also been informed on several occasions that high rates of collusion with drug gangs, either to supplement meagre wages or as a means of self -protection, has seen police increasingly involved in criminal activity. *Children of the Drug Trade*, a recent authoritative report about children working in the city's drug industry, states:

> ***"The involvement of police officers in supplying illicit drugs and arms to drug gangs is also rife. ... 'the relation between the police force and drug trafficking in Rio de Janeiro has shown itself to be intimately corrupted [...] in almost all cases of the apprehension of drugs or contraband arms there exists the involvement of members of these corporations [i.e. the police].'"***[11]

Although the police, the authorities and the media repeatedly trumpet the dangers faced in policing Rio's *favelas* and poorer communities, technical studies do not support these claims. A study of use of lethal force in Rio published in 1997 that was based on police records over a three year period, found that police were more at risk of being killed while policing other areas of the city than during operations inside *favelas*. However, in contradiction to this, police actions were found to cause a much higher number of civilian fatalities inside *favelas* than elsewhere.[12]

Rio's police themselves have shown that it is possible to implement very different and peaceful approaches to policing such communities. A community policing project set up in the *favela* of Cantagalo in south Rio has shown how policing that is based on a permanent as opposed to a temporary and occupational presence, and that encourages communication and participation of the local population, can have positive results. When Amnesty International visited the project in October 2001, members of the *Grupamento de Policiamento em Áreas Especiais* (GEPAE), Special Areas Policing Group, working with local residents had reportedly brought the homicide rate down to zero. Since that visit Amnesty International has been informed that the GEPAE policing experiment has suffered some difficulties due to inconsistent political support and changes in leadership. However, it remains an example of how policing can succeed.

Today, unfortunately, this project remains the exception. According to figures supplied by the State Secretariat for Public Security, 521 civilians

A mural in Rio showing black corpses with bullet wounds reads "*A carne mais barata do mercado é a carne negra*" ("The cheapest meat is black meat"). According to figures compiled from press reports in 1999 by the National Movement of Human Rights (MNDH), the highest proportion of racially identifiable victims of extrajudicial executions were black.

© AI

were reported killed in confrontations with the police in Greater Rio alone during the first five months of 2003, in comparison with a total of 900 in the whole of Rio state throughout the whole of 2002.[13] During these five months 22 police were killed while on duty in the city of Rio. Numerous cases documented by Amnesty International in 2003 that gave rise to consistent repeated reports of cover-ups and interference with investigations by members of the police, strongly suggest that most police killings fit a systematic pattern of extrajudicial execution or at best excessive use of force. A former state police ombudsman informed Amnesty International that when he compared the police report for a killing to the forensic report, he often found conflicting results; the police report would state that the victim had been killed in an exchange of fire after resisting arrest, while the forensic report generally showed that the lethal shots had been fired from behind and at close range, in circumstances suggesting that the person was the victim of an extrajudicial execution.

Amnesty International received countless reports that police automatically tamper with the scene of the crime by removing the bodies of those already killed prior to any possible investigation. The organization also found consistent evidence that police frequently threaten witnesses, hinder relatives' attempts to report shootings and dismiss all killings as "resistance followed by death" (resistência seguida de morte).[14] The *Instituto Médico Legal* (IML), Forensic Medical Unit, which carries out autopsies, is directly linked to the State Secretariat for Public Security, which oversees the police forces, and is therefore not independent. All this points to the fact that the consistent failure by the authorities to challenge this tradition of violent policing, instigate methods of effective investigation and punish those responsible for illegal killings have allowed the numbers of deaths to grow significantly. In the words of one Major from the Rio de Janeiro's military police:

> ***"it might be that a good policeman kills because he doesn't believe in another solution [...] when the system gives the sensation of impunity to the police, many police officers, even those that are, in quotes 'well-intentioned', take this kind of drastic decision to kill a person that has committed a crime."***[15]

Street children play outside Candelária church on 22 July 1993, the night before the massacre.
© Ana Filgueiras

In effect, ten years after the massacres at Candelária and Vigário Geral, very little has changed. The deaths in 2003 of Wallace da Costa Pereira and residents of Senador Camará, Borel and Turano, all documented in this report, show the irreparable damage that heavy-handed, arbitrary and corrupt policing has on the lives of so many in Rio de Janeiro. In many cases not only do families suffer the loss of a wage-earner but relatives of the victims subsequently lose their own jobs due to the stress, stigma and hardship that can come through losing a relative as a result of police action. The cases also show that in 2003, the suffering inflicted on innocents by the Candelária and Vigário Geral massacres continues to be inflicted on the poor of the city.

2. CANDELÁRIA

23 July 1993 – a tragedy that shocked the world

On 23 July 1993 a gang of hooded men opened fire on a group of over 50 street children who were sleeping rough near the Candelária Church in the centre of Rio de Janeiro city. Seven children and one young adult were killed. Four boys died instantly, a fifth was killed as he ran away. Three others were abducted in a car and two of them shot dead in the nearby Aterro do Flamengo gardens. One young adult died of his wounds four days later. Another young adult, Wagner dos Santos, who had been left for dead in the Aterro do Flamengo, survived a shooting in the face.

The murder of street children near one of Rio de Janeiro's most prominent landmarks caused a national and international outcry. As a result, the authorities moved swiftly to investigate the killings and three military police officers and one civilian were charged with the murders shortly after the massacre.

The charges against the four men were based mainly on the testimony of survivors of the massacre. Despite repeated appeals made at the time by Amnesty International and other non-governmental organizations to the state and federal authorities to provide protection and a place of safety for the children who witnessed the massacre, many witnesses continued to sleep on the streets where they were repeatedly threatened, allegedly by members of the military police. Only one witness, Wagner dos Santos, was afforded full federal protection, following a further attempt on his life in December 1994.

In October 1995 Wagner dos Santos identified through photographs four further military policemen suspected of involvement in the massacre. In April 1996, arrest warrants for these men were issued. Three were taken into custody, and the fourth policeman, Nelson Oliveira dos Santos Cunha, presented himself to the court, confessing to participation in the massacre.

Frustrated Justice

A total of nine men were reportedly implicated in the Candelária massacre: three military policemen and one civilian indicted in 1993; four further military policeman detained in April 1996 following identification by Wagner dos Santos, two of whom were later indicted; and one other military policeman who was killed in an unrelated incident in 1994.

By June 1997 three trials on the Candelária case had taken place. These resulted in the conviction of two military policemen: Marcos Vinícius Borges Emanuel in April 1996 and Nelson Oliveira dos Santos Cunha in November 1996, both of whom confessed to involvement in the massacre.

Although these three convictions were welcomed by Amnesty International at the time as a small victory against impunity, the organization expressed serious concerns about some aspects of the trials and investigations, noting that important evidence may have not have been made available to the court. The organization also expressed concern at statements made by Marcos Vinícius Borges, and the confessions of Emanuel Marco Aurélio Dias Alcântara and Nelson Oliveira Cunha, which exonerated five of those implicated in the massacre.

These statements, which claimed that there was only one car involved, contradicted the testimony of survivors who, from the initiation of

Passers-by gaze at symbolic coffins placed in Candelária square during the days after the massacre.

© Linda Rabben

Nelson Oliveira dos Santos Cunha was initially sentenced to 261 years in prison. On appeal in June 1997, however, he was acquitted of all counts of murder, and finally only received a sentence of 18 years for the attempted murder of Wagner dos Santos. The defence lawyer characterised the victims as petty criminals and thieves, asking the jury how many times they had been robbed in such a way, implying that the children's fate was a natural and justifiable consequence of such activities.[16] The trial was well attended and widely publicised. Virgilio Donnici, a jurist, who observed the trial, noted "It was one of the most serious, most barbaric crimes that has taken place in Brazil. Impunity in a case like this can only act as an incentive for crimes of this nature to repeat themselves". The well-known Brazilian sociologist Herbert de Souza (known as "Betinho") commented, "I have never seen anything so absurd in my life".[17]

Marcos Vinícius Borges Emanuel initially received a sentence totalling 309 years. In June 1996 this was reduced to 89 years. An appeal against the reduction of his sentence was lodged by the public prosecutor's office. This appeal was finally heard in February 2003 when a jury unanimously sentenced him to 300 years' imprisonment.

Two other military policemen and a civilian charged shortly after the massacre were acquitted in December 1996. Two more military policemen, one of whom had been identified by Wagner dos Santos as having shot him in the face, were released without charge in May 1996.

On 25 August 1998, military policeman Marco Aurélio Dias Alcântara was sentenced to a total of 204 years. Because none of the individual sentences for the various murders and attempted murders was longer than 20 years, he had no automatic legal right to a retrial as defined under Brazilian law, unlike the other defendants.

investigations into the massacre, had reported the involvement of two cars and up to eight participants. The statements laid most of the responsibility for the killings on Mauricio de Conceição Filho, a former military police officer nicknamed "Sexta-Feira 13", ("'Friday the Thirteenth")', who was shot dead in 1994 by members of the civil police anti-kidnapping unit.

Despite the fact that the Candelária trials resulted in some rare convictions of Rio military police accused of human rights violations, the massacre left a trail of violence and tragedy in its wake. The continued suffering, threats and violence faced by survivors, many of whom were killed later, showed that once the shock and the media attention on the massacres had subsided, little changed for the hundreds of children, adolescents and young people living on Rio's streets. The situation lived through by Wagner dos Santos, which included a further attempt on his life, has been indicative of failures past and present within the system, particularly with regards to witness protection and compensation.[18]

Wagner dos Santos – the personification of courage

Although several eye-witnesses came forward after the massacre, by the time the first Candelária case came to court only one was still prepared to testify: Wagner dos Santos, who was 22 years old at the time of the massacre, and was taken off in a car, shot, and left for dead.[19] He suffered a further attempt on his life in December 1994, when he was shot four times, and again left for dead, in what was an attempt to prevent him from testifying.[20] After pressure from national human rights activists and Amnesty International, the federal government took responsibility for moving Wagner dos Santos to another country for his own safety. The authorities failed to provide the other witnesses – all of them street children – with protection appropriate to their needs, and they drifted back to the streets. One of them, **Fabio Gomes de Azevedo**, nicknamed "'Barão"', became a victim of Rio de Janeiro's aggressive policing policy shortly before the second Candelária trial when, on 22 November 1996, he was shot dead by police in a dawn drugs raid.

Wagner dos Santos still lives in the European country where he was taken. When he arrived there the federal government had taken no steps to regularize his position with the country's authorities, and he was put in touch with private individuals only. As a result, of this he spent his first year in the country working illegally. His position was initially only regularized through lobbying by Amnesty International and lawyers working for other NGOs. Wagner still does not have the right to permanent residency in the country where he lives. Though he recently returned to Brazil to mark the 10th anniversary of the Candelária massacre, Wagner continues to be at risk when he returns to Rio and cannot stay there without extensive protection.

As a result of the two attempts on his life, Wagner suffered severe physical and psychological injuries, which persist to this day. Although he has held a number of different jobs, he is no longer able to work because of his injuries, and was recently officially registered as disabled and unable to work. He suffered a fall this year, as a result of which he was temporarily paralysed. He has two bullets lodged in his head, suffers from partial paralysis in his face, and damaged hearing. Recent tests showed that he is suffering from lead poisoning as a result of the bullets in his head, which because of their position cannot be removed. He recently began a course of medical treatment which should hopefully eliminate the lead poisoning.

Compensation

At the time of writing, the only compensation that Wagner dos Santos has received was under an agreement with the Rio state authorities which in 2001 made a legal settlement for a one-off payment of R$10,000 (approximately US$3,500) and a monthly pension payable for life to survivors and relatives of victims of both the Candelária and Vigário Geral massacres.[21] Although the federal government announced in July 2002 that the massacres were among a number of national priority cases for compensation, full compensation has still not been paid by the state to the survivors and relatives of victims of either massacre.

The failure of the Brazilian authorities to reach a full compensation settlement contrasts with the swift settlement achieved by a military policeman, who was found to have been wrongly arrested and charged with involvement in the Candelária massacre and who was reportedly awarded damages of R$180,000 (US$58,000) as a result.[22]

João Fernando Caldeira da Silva's body lay in the street for several hours after he was shot in 1999. The Candelária church is in the background.

© Luiz Morier

The massacre that never stopped

A study carried out in 2001 by a well known Rio artist, who accompanied the children of Candélaria before and after the 1993 killings, estimated that 39 out of the 72 children sleeping in Candelária at the time of the massacre had died violent deaths on the city streets. The fates of three survivors of the massacre speak volumes about the tragedy that continues to destroy lives long after it has disappeared from the media spotlight: in June 1999, 17-year-old **João Fernando Caldeira da Silva** was shot dead within metres of the scene of the massacre; in June 2000 the death of **Sandro do Nascimento** was indelibly stamped on the Brazilian memory at the end of a bloody siege which was broadcast live on TV across the nation; and in September 2000, **Elizabeth Cristina Borges de Oliveira Maia** was shot dead outside her home.

June 1999 – a spate of killings

Although an individual massacre of street children on the scale of Candelária has not been repeated, killings of street children in central Rio have remained consistent over the years. In June 1999 Amnesty International reported on a spate of killings of street children in central Rio. The killings were all characterized by a civilian in plain clothes identifying and singling out an individual child for execution on the spot. **João Fernando Caldeira da**

Silva, 17 years old and a survivor of the 1993 massacre, was shot in the chest within metres of Candelária church on 14 June 1999.

10-year-old **Fabiano Teodoro Teixeira** was travelling with a group of street children in Rio's central Lapa district on 2 June 1999. The bus driver called for assistance in controlling the children, who were making a lot of noise. As a policeman was escorting the group off the bus, a man in civilian clothes called Fabiano over to him. Fabiano ran away, but as he turned to look back the man shot him in the chest twice, killing him. The policeman present did nothing to stop the killer, who was later cited by the police investigation as being an off-duty military police corporal.

Two other children, **Marcos Marcelino de Souza**, and **Maxwell de Freitas**, were killed in similar circumstances during this period. Amnesty International is not aware of any prosecutions regarding these killings.

Elizabeth Cristina Borges de Oliveira Maia – "Beth Gorda"

On 26 September 2000, **Elizabeth Cristina Borges de Oliveira Maia**, 23, who lived in Candelária at the time of the massacre, was shot several times and died in front of her home in the Botafogo neighbourhood where she lived with her grandmother and children. Known as "'Beth Gorda"' to her friends, Elizabeth, who once described Amnesty International as "'part of my family"' had featured prominently in a documentary about the massacres of Candelária and violence in Rio that was shown on television worldwide.[23]. She was due to testify the following month at an appeal hearing for Marcos Vinícius Borges Emanuel. In June 2000 she had testified in Rio for a delegation of the Inter-American Commission of Human Rights and was present at a press conference at which the state Governor at the time, Anthony Garotinho, apologized for the Candelária and Vigário Geral massacres. A letter written to Elizabeth's grandmother on 29 September 2000 by the Inter-American Commission reads:

> ***"We had the honour of hearing Elizabeth last year in Rio, when she told us the emotional and honourable story of her life, in a joint meeting with the families of the victims of the Candelária and Vigário Geral massacres, before the official ceremony for the signing by Governor Garotinho, of the state law that recognizes the responsibility of the State for what happened and which stipulates compensation for the families and survivors.***
>
> ***Elizabeth, with her clear words and strong ideas, put us in touch, through the different phases of her life, with the daily drama of many people who live with suffering and anguish due to the continuous violation of their human rights, or the threat of that. As she knew how to overcome these difficulties and go forwards with her life, with her children, work and hope, she gave us an example which deserves to be widely known. However, another attack has tried to rub out this example by tearing her life away".***[24]

"Beth Gorda"

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The opinion expressed by the Inter-American Commission is a radical contrast to the tone of the coverage of Elizabeth's death in the Rio press, which recorded it as no more than another killing of a criminal:

> ***"Drug-trafficker killed in Botafogo – The drug-trafficker Elizabeth Cristina de***

> ***Oliveira Maia, 23, known as Beth Gorda, was killed early this morning [...]Two gunmen who were in a white Gol fired various shots at Elizabeth. According to police from the intelligence unit of the 2nd Batallion, Beth was involved with the neighbourhood's drug traffickers."***[25]

The police investigation into Beth's death claimed that she was killed by a nameless drug trafficker. The Public Prosecutor's office in Rio did not pursue enquiries and filed her case.

The hijacking of Bus 174

The legacy of violence spawned by the Candelária massacre reached a very public peak on 12 June 2000, when **Sandro do Nascimento**, a survivor of the massacre, held a number of hostages on a bus in the Jardim Botânico area of Rio after a bungled robbery attempt. The bus was surrounded by police, and the drama filmed by television crews and broadcast live across the nation. After several hours of tense negotiations, during which Sandro do Nascimento made several references to Candelária and Vigário Geral, he descended from the bus, holding a gun to the head of a teacher, **Geisa Firmo Gonçalves**, who he used as a human shield. As he walked towards the police, in what appeared to be an effort to end the stand-off, a policeman made a dash forwards, and in attempt to save Geisa Gonçalves, fired at him. He missed, and Sandro do Nascimento shot Geisa Gonçalves. The autopsy later revealed that she was killed by bullets fired by not only Sandro, but the policeman as well. Sandro do Nascimento was saved from lynching by enraged bystanders and filmed by TV crews being placed alive in the back of a police vehicle. However on arrival at the police station he was dead from asphyxia. The police responsible for taking him to the police station, were acquitted of manslaughter by a jury in December 2002.[26] The jury accepted the defence lawyer's argument that Sandro do Nascimento had asphyxiated himself. Once again, the message that Rio's police are permitted to kill people in their custody was reinforced.

The Bus 174 incident, as it came to be known, struck a chord across Brazil. An award-winning documentary about the tragedy charted the story of Sandro do Nascimento, who witnessed his mother's murder at the age of six, his life on the streets, his survival of the Candelária massacre and his passage through juvenile detention institutions, which ultimately lead him to a life of drug addiction and petty crime. The tragedy symbolizes many failures of the state and the criminal justice system and state in Rio de Janeiro, not least the poor preparation of the Rio police, who clearly lacked the tools and training to deal with such a situation.

The situation remains the same in 2003 – the death of Wallace da Costa Pereira and threats to human rights defenders working with street children

On 21 January 2003 a uniformed military policeman shot Wallace da Costa Pereira, an 11-year-old street child, in the back at close range. The incident took place metres from the spot in Lapa where Fabiano Teodoro Teixeira was killed in 1999. A 19-year-old military policeman, who had been on the streets for less than a year, confessed to the crime and is being charged with Wallace's murder. According to street children who witnessed the killing, the military policeman had been trying to extort money from Wallace, who took part in petty thefts. Wallace had been participating for some months in the activities of São Martinho, a non-governmental organization that runs a day centre for children in Lapa.

São Martinho is a Rio-based organisation of international renown that has been working with children and adolescents in situations of social risk, particularly street children, for nearly 20 years. The NGO's Socio-Educational Centre in Lapa operates a daily open-door policy to children and adolescents, offering children a refuge, access to medical care, meals, recreational and educational activities. The Socio-Educational Centre serves around 60 children a day, out of hundreds estimated to be living on Rio's streets.

On 27 February 2003 a group of street children were being forcibly rounded up by military police and civil police from the *Delegacia de Proteção à Criança e Adolescente* (DPCA), Unit for the Protection of Children and Adolescents.[27] A number ran towards the Socio-Educational Centre in an attempt to escape the operation. Two instructors from the Centre came out into the street in order to calm the situation down. According to reports the children had become calm when a group of police reappeared, and with their weapons drawn and shouting threats, attempted to round up the children once more. The situation began to degenerate again, at which point, according to eyewitnesses, a civil policeman from the DPCA held his gun to the head of one of the instructors. Following this he aimed his

gun at a group of children and adolescents standing by the wall of the Centre and fired several shots at them. The marks left by the bullets in the Centre wall are still visible.

The killing of Wallace, and the incident outside the São Martinho building, which took place within weeks of each other, indicate clearly that ten years on from the Candélaria massacre children and adolescents who eke out an existence on Rio's streets still live at constant risk from arbitrary and violent actions by members of the city's police forces. Although another Candélaria massacre has not yet taken place, the attitudes, conditions and circumstances in which the killings took place have been allowed to continue unchecked. Amnesty International is alarmed by the fact that "specialized" police from a unit theoretically trained and equipped specifically to "protect" children would act in this manner in broad daylight, showing blatant disregard for the safety of not only the children but also the human rights defenders working with them. The civil policeman who put his gun to the head of the instructor from São Martinho and subsequently fired at the group of children has reportedly not yet been identified.

Amnesty International is concerned to note that the continued dangers faced by street children in Rio have been allowed to flourish in a climate of disregard, and that there has been no evidence of political will to challenge and change popular attitudes which label street children as marginal and dispensable members of society.

In 2001 appaled Brazilian human rights defenders informed Amnesty International of statements made in the Rio state legislative assembly by a deputy, Wolney Trindade, which not only clearly supported extermínio, "social cleansing" but also offered to reward anyone who kills street children:

> "Today with the question of human rights protection, scum think they can do what they want...electors have to understand my position and vote for me, knowing that as for the 17-year-old who died in Candelária, as I've said before and as I say again, if any more die, I'll pay for the coffin and reward whoever kills them".[28]

Amnesty International calls on the Rio state authorities to officially repudiate any statements made by elected officials in support of unlawful killings.

3. 29 AUGUST 1993 – VIGÁRIO GERAL

The tragedy continues

Before the shockwaves sent out by the Candelária killings had subsided, little more than a month later another attack on civilians by policemen, this time in a community in the north of the city, made news headlines around the world.

On the evening of 29 August 1993, 21 people were killed when a group of heavily armed men, wearing hoods to disguise their identity, attacked the *favela* of Vigário Geral, in the north of Rio de Janeiro city. For two hours they roamed the area shooting indiscriminately at local residents. Among the dead were seven men playing cards in a bar and eight members of a family, including a 15-year-old girl, killed inside their home. The attack was reportedly carried out in revenge for the murder two days earlier of four military police officers who were allegedly involved in the extortion of drug traffickers.[29] Following official investigations, charges were brought against 33 people, most of them military policemen, all believed to belong to the "*Cavalos Corredores*", (the "Race Horses"), an infamous death squad.

Despite the charges, which were swiftly brought, survivors of the massacre felt unprotected and abandoned by the authorities. A survivor of the massacre said in 1998:

> ***"I was in a bar with friends when they came in armed. I showed my work ID, but they fired all the same. I was hit five times. I survived, but I don't know if it was worth the effort. Perhaps it would have been better to have died. I wouldn't be going through so much suffering and fear. Protection itself, I've only received from God and the community of Vigário Geral. The government has never protected me. I travelled to the first two hearings by bus with my wife. Because of the threats, we wanted to go to Niterói. But one of the police on the escort was charged [with involvement in the massacre]. Today it's the community itself that protects us."*** [30]

Pierre Sané, former Secretary General of Amnesty International, on a visit to Vigário Geral in 1995.
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An incomplete judicial process

The trials of those accused of participation in the Vigário Geral massacre have been complex and laborious and have revealed numerous weaknesses in the investigative proceedings.

Many details of the killings were revealed during court hearings which took place in June and July 1995. Evidence produced confirmed that the massacre was an unofficial police operation. Thirty-three people, most of them military policemen, allegedly participated. Two of these policemen have since died – possibly killed to prevent them from giving evidence.

In an attempt to exonerate themselves, 17 of the police officers in preventive detention secretly taped co-detainees' statements in which they admitted responsibility for the killings and gave details of the operation. In February 1996 the 17 policemen who had recorded the tapes were conditionally released pending trial. The tapes also named a number of other people, not yet then charged, of having been involved. As a result, 17 more military policemen were arrested. The judicial process was split into two as a result of the tapes.

In October 1996 the bodies of the victims of the massacre were exhumed. Originally, they

Various trials have seen the conviction and sentencing of a total of six policemen for participation in the massacre. In 1997, Paulo Roberto Alvarenga was convicted and sentenced to 449 years in prison. This conviction was based on a judgement that treated the individual murders as separate crimes. In 1998 the federal supreme court ruled that this was incorrect and that he should have been tried for one continuous crime.[31] Consequently the federal supreme court reduced his sentence to 57 years. Arlindo Maginario Filho was sentenced to 441 years in prison in November 1997. His sentence is under appeal and following the judgement in the Alvarenga case, he also has the right to be tried for one continuous crime. Roberto César Amaral Júnior was sentenced to 6 years in prison on one count of murder on 26 August 1999. He was absolved on all other counts. Adilson Saraíva da Hora, was sentenced to 72 years in October 1999. In September 2000, José Fernandes Neto was sentenced to 45 years' imprisonment. Alexandre Bicego Farinha received a sentence of 74 years in October 2000.

None of the above convictions are final, and according to material published in a national newspaper in July 2003, only two out of the six convicted policemen were still in prison, awaiting appeal hearings. The other four had all been released due to the expiry of the periods set for their appeal hearings. The article also states that the majority of the military policemen suspended pending investigations in 1993 have been reinstated into the force.[32]

were simply to have been moved in order to make room for new bodies (a standard practice in many Brazilian cemeteries). However, as the first three bodies were exhumed, loose bullets were found in two of the coffins – indicating that the original autopsies had failed to remove all the bullets and submit them for ballistic testing. The judge in charge of the case ordered the exhumation of all the bodies, and this took place in the presence of an independent forensic pathologist. Eleven more bullets were found – making a total of fourteen that had not been removed during the original investigation.

In November 1998, despite all being named by the principal witness, a former member of the *Cavalos Corredores*, ten policemen accused of participation in the massacre were acquitted. The defence conceded that they had taken part in the organization of the invasion of the *favela*, but alleged that they did not participate directly in the massacre. The tapes recorded in 1995 by some of the police officers contributed to their acquittal, which was regarded by many as a whitewash. An appeal was lodged.

On 23 July 2003, the tenth anniversary of the Candelária massacre, 9 further military policemen were acquitted. This decision was based on the argument that the secret tapes recorded in 1995 had been fabricated, with the intention of exonerating the true culprits of the massacre. This argument was put forward during the trial by both the defence and prosecution lawyers. The lawyer for the relatives of the victims stated that this was a step forward in the search for the true authors of the massacre.

Witness Protection

As with the Candelária trials, protection for some of those involved in the Vigário Geral proceedings has also been problematic. The chief prosecution witness for the Vigário Geral case is a former member of the *Cavalos Corredores*. An active member of the death squad at the time, he arrived late at the meeting point on the night of the massacre and therefore did not take part. In the following weeks he realised that his life was in danger from his associates in the *Cavalos Corredores*, and he turned himself into the police, telling them all that he knew about the death squad and the massacre.

Despite receiving satisfactory police protection by an intelligence unit of the military police since October 1993, Amnesty International received reports in 2003 that food parcels and a monthly allowance on which he and his family survived had been cut. For this reason the witness, who suffers from tuberculosis, has come under undue and unnecessary pressure, which appears to be the result of intentional efforts to intimidate him. On 8 April 2003 this year, the witness, without prior warning or explanation, was transferred to a military police station where he was held in a cell. He has since been transferred outside the state of Rio de Janeiro. The reason for this change in his situation would appear to be the setting of a second Vigário Geral trial which took place in July.

Despite the fact that further measures to protect the witness might well have been necessary, Amnesty International is concerned at the fact that they were adopted without prior communication to the witness or his family, and that his medical needs appear not to have been taken into account. In June 2003, Amnesty International was informed that his family are currently receiving no protection at all, and have been surviving with the help of relatives and friends.

Relatives of the victims of the Candelária and Vigário Geral massacres, and the Acari "disappearances" in Vigário Geral, April 2002.

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Subsequent events in Vigário Geral

Although incidents of violence in Vigário Geral are believed to have lessened in recent years, in August 2002 an incursion by the *Batalhão de Operações Especiais da Polícia Militar* (BOPE), Special Operations Batallion of the Military Police, left one man, **Joel de Jesús**, dead and three more injured, including a 41-year-old passer-by, Elcio Pereira do Nascimento, and Paulo Sérgio Santos Dias, the drummer of O Rappa, a pop group famous across Brazil. Paulo Sérgio Santos Dias was leaving Vigário Geral by car on his way to a concert when a car pulled up next to his and the occupants began to fire guns. Getting out of the car in an attempt to identify himself, he was shot in the foot and the back. The Commander of the BOPE was fired by the state Governor following the incident. According to some sources the BOPE entered Vigário Geral with shouts of "We're going to repeat Vigário".

Despite a twenty-year feud between drug traffickers operating in Vigário Geral and another gang in a neighbouring community, hostilities between the two groups were reported to have

ACARI

On 26 July 1990, eleven young people, five of whom were minors, were abducted by a group of men from a farm in Magé, just outside the city of Rio. The "disappearance" of the eleven, who all came from the Acari community in Rio, became known internationally due to the tireless campaigning of the victims' mothers, the "*Mães de Acari*", Mothers of Acari. Amnesty International reported in 1994 that the abductors had been identified by the intelligence section of the Military Police as being military police officers from the 9th Military Police Battalion in Rocha Miranda, Rio de Janeiro state, and as detectives from the Cargo Theft Department, from the 39th Police Station of Pavuna, Rio de Janeiro. The police report indicated that the military police officers involved had been extorting some of the victims before the abduction. A book written about the *Mães de Acari*, which has a preface by Danielle Miterrand, a loyal supporter of the group, identifies some of these police as being members of the *Cavalos Corredores*.[33] In 1993, Edméia da Silva Eusébio, one of the most active mothers, was shot dead a few days after testifying in court about police involvement in the "disappearances".[34] In 2003, the bodies of the eleven had still not been located, despite several aborted attempts on the part of the authorities. According to reports received by Amnesty International, investigations of possible burial sites by the authorities were negligent and destructive, possibly resulting in permanent damage to the sites. Because the bodies have still not been found, no prosecutions have ever taken place. The "disappearance" of the eleven remains unsolved and unpunished.

lessened in recent years. However, in July 2003 fighting intensified for a period of several days, which lead to the reported death of eleven men, at least two of whom died in shoot-outs with police.

4. THE SITUATION IN 2003

Police killings and violence on the increase again

In 1996, Amnesty International stated that an increase in violence in Rio de Janeiro was largely due to the growth in the activity of armed drug gangs, and the confrontational policing methods introduced to deal with this activity. The organization noted that high crime rates and armed battles between rival groups, and between gangs and the police were a cause of panic, and in many cases death, among the civilian population. This extreme situation often lead to public support for violent policing methods.

Sadly, to date there has been no measurable improvement in the situation. Rio de Janeiro continues to be a city that suffers from very high levels of crime and violence, and as a result elected officials continue to echo populist calls for violent and repressive policing methods. Amnesty International is extremely concerned to note that in 2003 there have again been indications of implicit state government support for the unlawful killing of criminals.

After a particularly brutal wave of violence swept across the city in February 2003, the Rio de Janeiro state authorities made public statements supporting the killing of criminals, as if this were the only way in which the situation could be brought under control. On 26 February, the day that an emergency security package, *Operação Rio Seguro*, Operation Safe Rio, was launched in an effort to contain the violence, the then Rio de Janeiro State Secretary for Public Security, Josías Quintal, was widely quoted as saying:

> ***"Our 'bloco' [reference to the samba schools that compete in the city's carnival] is on the streets, and if there has to be armed conflict, there will be. If someone has to die as a result, let them die. We're going to go in hard."***.[35]

The city's mayor, Cesar Maia, supported the state government position, and referring to a prison rebellion that took place in September 2002, reportedly said:

> ***"If I was Governor in that rebellion in Bangu 1, there would have been no negotiations. The BOPE should go in and shoot to kill"***.[36]

A burning bus, the target of arsonists, blocks one of Rio's main highways.

© O Dia

A chronology of violence in Rio de Janeiro in 2003

In the context of the uncompromising public position of the authorities, and a crackdown on the operations of drug traffickers, violence has remained endemic in Rio in 2003. While Amnesty International recognizes the duty of the authorities to maintain public order and tackle crime, the organization is extremely concerned at the alarming numbers of innocent civilians who have been fatal victims of police operations in *favelas*, of stray bullets and of organized violence by drug gangs.

The situation became critical in the weeks running up to the city's world famous carnival in February, when drug gangs organized disturbances across the city. In one day on 23 February, at least 23 in-service buses were reportedly destroyed by Molotov cocktails, and many more seriously damaged. In some cases people travelling in the buses were injured in the attacks. Although most of the damage was to property, at least two people were killed as a result of the violence. One attack on a bus in the Botafogo district left numerous people injured. A 70-year-old woman who was on her way to work on the bus, **Aury Maria do Canto**, later died as a result of her injuries. Individuals believed to be linked to drug gangs set up road blocks and detonated small home- made explosive devices in various areas, including tourist areas on the seafront. A 73-year-old taxi driver, **Sílvio Manuel Fernandes**, who failed to stop at a road block set up by drug traffickers in north Rio, was executed with a shot to the head. The precise reasons for the disturbances are not known, but they are believed to have been carried out on the orders of gang leaders.

The Rio state government's response to this was to set up the 'Operation Safe Rio', and order the transfer of the drug trafficker believed to have ordered the disturbances from a high-security prison in Rio de Janeiro to another high-security prison in the state of São Paulo. By the end of the second day of the operation eight alleged drug traffickers had been shot and killed by police during incursions into *favelas*.

To maintain order during the carnival period, the federal government authorized the presence of the army on the streets of Rio, for the fourth time since 1992. However, the presence of the army in the streets, which did guarantee the security of

The growth of armed drug gangs

Criminal groups have been engaged in violent disputes over territory in Rio since the early 1980s. In the 1990s these groups consolidated and increased their control over drug trafficking operations in the majority of Rio's poorest communities. In *favelas*, where there is usually very little, if any, official state presence, the drug gangs have become very powerful forces within the community. Captured leaders are mostly held in high-security prisons, from where they issue orders to a loosely based hierarchy of managers, who earn high salaries overseeing teams of look-outs, guards and delivery men for cocaine and marijuana distribution outlets, called *bocas de fumo*. The recent report *Children of the Drug Trade* found that since the beginning of the 1990s the gangs have become militarily and technologically better equipped and have developed more advanced administrative structures. They have also adopted increasingly violent and repressive policing strategies within *favelas*, and have recruited children in growing numbers. The report documents cases of beatings, shootings and executions carried out by the gangs, not only of rivals, but also of alleged criminals and wrongdoers within the community where they operate. These punishments take on the form of "social cleansing", whereby through ridding the community of undesirables and the elimination of rivals, the gangs strengthen their power. Such activities are allowed to flourish given the absence of official state presence in such areas. It cites estimates that around 10,000 armed drug traffickers, including 6,000 children, work in drug trafficking in Rio de Janeiro.[40]

The increased factional domination of Rio's poor communities has meant that the majority of law-abiding citizens who reside in these areas, continue to live lives that are subjected to two different sets of rules imposed on them by both the drug gangs and the police. The power of the gangs has also been extended into the penal system, by a means of a policy implanted by the authorities themselves, who informed Amnesty International in 2002 that all detainees are separated according to which drug gang operates in the area where they live, regardless of the nature of the crime for which they are charged or convicted.[41] Human rights defenders working in the prison system in Rio have expressed their concern to Amnesty International that this policy has increased the power of these groups within the penal system in Rio, and has unnecessarily stigmatized many individuals who have no other link to the gangs.

Despite the very hard line taken by the Rio authorities against these groups, there is strong evidence to suggest that they cannot operate without the support of corrupt police. For this reason, Amnesty International welcomes news that the Rio state authorities plan to introduce measures which will make it easier to investigate and punish corrupt police, and which will oblige police chiefs and commanders to present detailed reports on operations in *favelas*.

thousands of revellers in central Rio, did not diminish the violence elsewhere. According to figures released by the Secretariat for Public Security, 70 people were killed in Rio state during the first three days of the four day holiday, an increase of 18.6 per cent over 2002. A 56-year-old English teacher, **Federico Branco de Faria**, was shot dead by a military patrol in the north of the capital on 4 March. By 7 March, 100 people were reported to have been killed, including seven alleged drug traffickers in a police operation in Costa Barros, a poor community which benefits from a health project set up by the international NGO *Medecins Sans Frontières*.[37]

In the final days of March, three young students, residents of north Rio were hit by stray bullets in separate shoot-outs between police and criminals. Two died as a result of their injuries. On 25 March, **Gabriela Prado Ribeiro**, 14, died after she walked into a shoot-out between police and robbers at an underground station. Her family later said that this was the first time that she had been allowed to travel alone on the underground. Five days later, **Marco Antônio Pereira Soares** died after being hit in the head by a stray bullet at a petrol station. On the same day, **Vinícius de Souza Alves** was caught in crossfire and hit by two bullets in the thorax, but survived.

At the end of April, the former state Governor, and husband of the current state Governor, Anthony Garotinho, took over the position of State Secretary for Public Security. On 10 May he announced on his official radio program that 100 supposed criminals had been killed in shoot-outs by police since he had taken office.[38]

History repeating itself – Police killings documented by Amnesty International in 2003

During a visit to Rio in June 2003, in addition to meeting relatives of victims of the Vigário Geral and Candelária massacres, Amnesty International met with relatives of victims and listened to eye-witness accounts of numerous police operations that took place in Rio in 2003. These reportedly involved serious human rights abuses, including torture, "disappearance", extrajudicial execution and excessive use of force. Time and again, the organization took testimony from residents of Rio's poorest communities who felt that they were the principal victims and targets of a violent and discriminatory public policing policy.

January: a police 'mega-operation' leaves 14 dead

On 10 January 2003 at approximately 9am an enormous anti-drug-trafficking police operation was undertaken in the *favelas* of Rebu and Coréia, in Senador Camará, in the west of Rio de Janeiro city. The operation, which received wide coverage in the national press, was the first of its scale undertaken by the new state government. Over 250 military and civil police took part, using 58 cars and two helicopters.

The official objective of the operation was the arrest of four alleged drug traffickers. In order to carry out the operation, the authorities obtained a roving search warrant, "*mandado de busca e apreensão itinerante*", which they used to justify searches of any resident or house in the *favela*. Human rights defenders expressed their concern to Amnesty International that such a warrant does not appear to have a solid legal basis in Brazilian criminal law, which specifies that search warrants must indicate with the greatest possible precision the name of the person or house to be searched.[42]

The use of an arguably illegal warrant in a large scale police operation, which treats every resident and home in the community as a potential suspect, is indicative of the confrontational posture adopted by the authorities during such operations, and reinforces the popular stereotype that all favela residents could be criminals. Once they are perceived as potential criminals then the use of arbitrary and excessive force, and subsequent human rights violations, appears to become an acceptable price to pay in the eyes of a large portion of the city's media and population.

The operation led to the deaths of 14 people, including three minors and two policemen.[43] Seven men, including one policeman, were killed at a siege of a house where a group of drug traffickers took refuge. A resident of the house told newspapers that a group of four armed men had come to the house at 6am and forced her to let them hide. She went on to say that during the operation the police, who surrounded the house, let the women leave and proceeded to kill all the men inside, including her son-in-law and nephew, who she said had no involvement with criminal activities:

> ***"I pleaded: Don't kill these two because they're not criminals, they're workers, but it didn't make any difference. The police just let the women leave and killed everyone."***[44]

Two young men, **Erivelton Pereira de Lima**, 20, a student who worked with his father, and **Gil Alves Soares**, 21, who worked in a bakery, were arrested during the operation. According to eye witnesses and relatives they were beaten by police before being locked in the back of a police car for four hours in temperatures of 40ºC. They died in hospital the same day. The official police version of events alleged that they had died of a drug overdose. Two months after the operation, an autopsy for these two men had still not taken place.

In June 2003, Erivelton's father described to Amnesty International how events unfolded after he last saw his son alive in the back of a police car:

> ***"[T]hen they opened the back of the car to have a look at them, I thought that they were going to release my son […] they got a bottle of alcohol from the store, the other boy who was hancuffed to him, Gil, was already dead. They opened the litre of alcohol and began to spread it on my son's legs and arms. Next they shut the car and disappeared."***

He said how he had tried to persuade police that they had made a mistake in arresting him:

> ***"It was a mega-operation, there were about 250 police, we couldn't say anything, I tried to argue with one saying that my son wasn't a criminal, and he didn't listen, didn't pay attention, perhaps if he had paid some attention to me, today my son wouldn't be dead. They took the life of an innocent."***

He also described how he visited several local hospitals in an effort to track down his son. When he finally located him at night, he was already dead, with extensive bruising over his body:

> ***"There was no evidence of bullets; they really beat him a lot. When I identified it, his body was black, and now a medical examination has stated that my son was an addict, that he died from a cocaine overdose…".***

The operation was greeted as a success by the then Secretary for Public Security, Josías Quintal, who was reported to have said "When there is a confrontation, there are deaths. But the police acted correctly. We will find out whether there were innocents among the dead; however, we believe that they were all criminals".[45]

In June, Erivelton Pereira de Lima's family, who reported his death to the Human Rights Commission of the Rio de Janeiro State Legislative

A T-shirt worn by a relative shows the four men who died in Borel on 17 April 2003. The names of the victims and the phrase '*Posso me identificar*?' ("Can I identify myself?"), were posted up around the community after the killings.

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Assembly, had still not received any official explanation from the state authorities as to his cause of death, other than that alleging that he died from an overdose.

Borel – a community under attack

In June 2003, Amnesty International visited the community of Borel, in the north of the city, where on the afternoon of 17 April 2003, four young men were shot dead during an operation carried out by military police. They were: **Carlos Magno de Oliveira Nascimento**, 18, a student who possessed dual Brazilian and Swiss nationality, and who was in Rio to visit relatives; **Everson Gonçalves Silote**, 26, a taxi driver; **Thiago da Costa Correia da Silva**, 19, a mechanic; and **Carlos Alberto da Silva Pereira**, 21, a painter and builder. One further man was injured in the attack.

Although the precise circumstances that lead to the death of the four men are not clear, all technical evidence and testimony so far indicates that they were summarily executed.

The initial military police version of events claimed that the four men were drug traffickers killed in a shoot-out. The police produced weapons and a quantity of drugs which they claim were seized from the dead men. This version was soon discredited by official autopsies, which showed that they were killed with shots to the back and the head, and which demonstrated no evidence that there had been an exchange of fire. The police later claimed that the victims got caught in the crossfire between police and criminals.

Relatives of the men explained to Amnesty International the difficulties they had experienced in reporting the crimes. Following the shootings, the bodies of the men were immediately taken to hospital by police on the pretext of "rescuing" them, although they were all already believed to be dead. The families described problems in locating the bodies, and how, due to a lack of refrigeration space, the bodies were kept in a corridor in the

Carlos Magno, killed in Borel in April 2003, was a keen snowboarder and skier. He was 13 at the time of this photo.

© Private

IML, Forensic Medical Unit, until they had started to decompose. They also informed Amnesty International that they were forced to pay for the preservation of the bodies in addition to funeral costs and taxes. They said that 20 police cars and numerous police officers were present at the funerals. These burdens placed on recently bereaved families, coupled with a lack of knowledge about legal processes and suspicion of the authorities, meant that they did not report the killings until one and a half months after the incident. During this time no investigation of the crime scene took place.[46]

When the investigation, which included a reconstruction of the event, finally took place in June, it indicated that the four young men could have walked into a trap set for drug traffickers where they were executed on the spot. A witness has described hearing one of the men begging not to be killed. Two representatives of the federal government, the National Secretary for Public Security and the Special Secretary for Human Rights, have visited the community of Borel in order to visit the scene of the murders and talk to relatives of the victims.

Sixteen military policemen took part in the operation. In May they were reported to still be policing the streets.[47] During a public meeting held in Rio's state legislative assembly in May, a relative of one of the victims described how the tragedy had shattered the lives of the dead men's relatives. She did not demand vengeance against the police, who she said were encouraged to act in such a way, and stated her belief that the deaths in Borel were the result of deep discrimination against Rio's poor communities fostered by the authorities and the media:

> ***"...I believe that the police are also victims because they have the opposite view [...] they discriminate against residents because they have been trained to do so. I wouldn't even want them to spend 30 years in prison, because those policemen have families too. And I believe that if the government starts promoting a different vision of the communities, I'm sure that the police will respect us, ending this discrimination. This is a very big thing, but I believe that we have begun the process and that we will achieve this respect, not just on the part of the police but even by society itself. Because someone from the 'Zona Sul' [the more affluent south of the city], when they find out that I live in Borel, looks at me in a different way, but if I say that I live in Barra [in the south] I have all their tenderness, all their respect and all their attention…there is discrimination coming from the press, from the government."*** [48]

According to reports in the press, five military police officers were charged with manslaughter on 24 July 2003, and a further 11 had been suspended following initial investigations into the killings.[49]

Turano – two 'disappearances'

Leandro dos Santos Ventura, 15, a student, and **Fábio Santos da Silva**, 25, a builder, were last seen on 2 May 2003. Leandro said goodbye to his mother that morning, when he told her that he was going to visit friends in the community of Turano. On 3 May she received a phone call telling her that her son and two other men had been apprehended in Turano and taken away by military police the day before.[50]

Relatives of the two men believe that they were arrested and taken to a nearby hill where the third man, known as "**Sapinho**", was killed. Of the three, only the body of "Sapinho" has been found. According to the official police bulletin he died after resisting arrest. Amnesty International welcomes reports that the authorities moved swiftly to detain a number of military police in relation to the killing of "Sapinho" and the "disappearance" of Leandro dos Santos Ventura and Fábio Santos da Silva.

Turano hit headlines across Brazil three days after the "disappearance" of Leandro and Fábio, when a 19-year-old university student,

Luciana Gonçalves de Novaes, was hit in the head by a stray bullet and seriously injured while studying on campus at Estácio do Sá University, which is situated next to Turano. At the time of writing this report it was still not known where the bullet, which is of the type fired by police weapons, was fired from, or who fired it. The saturation media coverage of the Estácio do Sá incident is in radical contrast to the coverage of the "disappearance" of Leandro dos Santos Ventura and Fábio Santos da Silva, which received minimal attention in Rio newspapers.

5. CONCLUSION AND RECOMMENDATIONS

The massacres of Vigário Geral and Candelária have indelibly stained the history of Rio de Janeiro. They exposed Rio, Brazil and the world to the violence that a large part of the city's population suffers unnoticed on a daily basis. They led to national and international calls on the authorities to stop the killings, punish those responsible, and fulfil their duty to ensure the security and rights of all citizens.

Though the cases of Candelária and Vigário Geral have made some slow progress through the Brazilian legal system, they have been afflicted by numerous problems. The case of Vigário Geral remains largely unresolved. Those who suffered either direct injuries or the injury of the loss of a family member continue to experience medical, personal and financial hardship as a result of these crimes, while many of those responsible still walk free. The Brazilian authorities have failed in their duty to protect survivors and have largely failed in their duty to make good on their promises to deliver justice.

Ten years on little has changed. The killings of Wallace da Costa Pereira, and at Senador Camará, Borel and Turano are strong examples of how failures to investigate and punish those who have committed the crimes of the past continue to provide the conditions for killings in the present. What is worse is that today's killings appear to take place within the context of widespread political and public support for such actions. As a result, the number of those unlawfully killed by the police continue to increase.

A picture of Rio de Janeiro ten years on shows that its population has clearly been let down. Amnesty International has found once again that to be poor in Rio de Janeiro continues to mean being trapped in a cycle of violence, with few if any places to turn for protection. The policing of poor communities is violent, repressive and often corrupt. Not only are such communities excluded from access to fundamental economic and social rights, but their right to live in peace and security is consistently neglected, and, or even abused, by the state.

In 1997, Amnesty International called on the Brazilian authorities to ensure the end of such killings by putting in place mechanisms that would contribute to the end of impunity. The organization expressed its concern about failures and omissions by the Brazilian authorities with regard to the

A mural in Rio shows the popular perception of policing in the city's poor communities. "*Invasão do Lar*" means, "Invasion of the home".

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issues of witness protection, investigations into and prosecutions for human rights violations and compensation for the victims of these violations and their relatives. Despite some advances, notably in the area of witness protection, Amnesty International remains concerned that there has been little progress overall.

While Amnesty International recognizes the responsibility and need for the state to tackle serious crime, the authorities must ensure that these efforts are undertaken within the rule of law. For this reason Amnesty International calls on the highest authorities in the Rio de Janeiro state government, the federal government and all other state governments to make public statements in unequivocal condemnation of all cases of unlawful killing and the unjustifiable use of lethal force committed by members of the police forces.

Amnesty International also calls on the authorities to give priority, as a matter of urgency, to the necessary reforms and investments that can end impunity and provide policing methods that will ensure effective public security for all the population.

In the wake of Candelária and Vigário Geral: Investigations / Impunity:

In 1997, Amnesty International identified numerous shortcomings in investigations of human rights violations. The organization called for the investigation procedures for lethal shootings, torture and ill-treatment by agents of the state to be reviewed and reformed as a matter of urgency, and for all human rights violations to be investigated independently by a force other than that implicated. Amnesty International also called for the establishment of measures to ensure the independence of forensic services.

In 2003, Amnesty International still maintains serious concerns about investigation procedures for alleged human rights violations. The organization is consistently informed of cover-ups by those involved in shootings: crime scenes systematically tampered with, intimidation of witnesses and the presentation of incorrect statements. Time and again Amnesty International has been informed that police killings are classified as "'resistance followed by death"' (*resistência resistencia seguida de morte*) a definition which, while not codified under Brazilian law, has automatically absolved police involved in many shooting incidents without further investigation. In fact, the failure to implement consistent mechanisms for investigation of all shooting incidents has contributed to the high levels of killings and the impunity that surrounds them.

The failures to investigate killings also rests with the *IML*'s, or Forensic Medical Units, which are directly under the control of the State Secretariat for Public Security. The fact that these units are not independent of the authorities responsible for policing has consistently compromised their ability to provide effective and impartial investigations of human rights violations. In addition, the lack of resources and specific training to effect such investigations has resulted in reported cases of bodies being left outside refrigeration units and bullets being left inside bodies, among many other complaints.

The investigation process is further hampered by the difficulties experienced by many relatives of victims in finding easy and safe ways to report shooting incidents. Members of marginalised communities, where the majority of killings occur, often complain of a lack of contact with trustworthy representatives of the state to whom they can report these incidents in safety. This has meant that either cases go unreported or they are reported long after the incident has occurred thereby seriously hampering the possibility of investigating the scene of the crime.

Amnesty International recognizes that the federal government, as part of their recent proposals for reforming public security, under the *Sistema Único de Segurança Pública* (SUSP), Unified System for Public Security, has addressed some of these issues. The organization will follow the progress of these reforms closely.

Witness Protection:

At the time of the Candelária and Vigário Geral massacres there were no official structures in place for the protection of witnesses to human rights violations. In 1997, Amnesty International welcomed the existence of pilot witness protection projects in certain states, though the organization did raise some concerns. By 1998 the Ministry of Justice had signed an agreement with the Pernambuco state government, and the Pernambucan NGO GAJOP (Gabinete de Assessoria Jurídica a Organizações Populares) to set up PROVITA, a witness protection program based on the objective of inserting those at risk into new communities on an anonymous basis., The program involves the participation of civil society, in the construction of a protective network.

In 2003, PROVITA is operational in ten states. The network is maintained through agreements between the federal and state governments and NGOs, and relies on experienced volunteers to assist with practical issues. In states where there is no PROVITA program, a department for witness protection at the *Secretaria Especial de Direitos Humanos*, Federal Human Rights Secretariat, administrates such cases.

Amnesty International has received some reports of problems faced by the PROVITA program: a lack of consistent funding, which has seen NGOs having to renegotiate their funds with the authorities at regular intervals; a lack of resources to ensure that all those needing protection can be included on the program and that those on the program can be maintained on it for the necessary time; and concerns that the authorities have relinquished some of their responsibility by passing a disproportionate burden of the program to NGOs and volunteers. Nevertheless, it is clear, given the vacuum that existed in 1993, that the introduction of PROVITA has proved an important step in the fight against impunity, organized crime and human rights violations committed by members of the police forces. However, further support and investment will be needed if PROVITA is to cater with the number of cases occurring in Brazil and especially Rio de Janeiro today.

Compensation:

In its 1997 Report, Amnesty International identified the failures of the authorities to act fairly and decisively when it came to reparations to victims' families. The difficult struggle faced by families to ensure the state recognized their rights and the suffering it had caused them has only increased the injury felt by those who today still endure medical and financial hardships as a result of unlawful killings. Although in 2000 then Governor Anthony Garotinho recognized the state's responsibility in the Vigário Geral and Candelária massacres, survivors and victims have still not received full compensation from the state, which has a duty to provide appropriate reparation and compensation to the victims of human rights violations and their families.

Also of grave concern has been the consistent failure of the federal and state authorities to reach agreement with those representing Wagner dos Santos, despite years of intricate negotiations. Today, as the numbers of victims seeking redress continues to increase, it falls on the authorities to ensure that these unlawful killings stop and that those now seeking redress are provided for in the most immediate, transparent and effective way to minimise further pain and distress.

General Recommendations:

1. **Complaints**: Any victim or relative of a victim should have access to effective complaints procedures to allow all victims or their relatives, to register complaints of human rights violations without fear or reprisal. Where

communities might have difficulty in accessing normal state complaints mechanisms it is incumbent on the state to ensure that such access is provided, guaranteeing both ease of use and safety.

2. **Investigations**: Given the extremely high number of police killings, mechanisms must be put in place to ensure that all are fairly, effectively and independently investigated. This must include: complete protection of the crime scene and imposition of sanctions for those who tamper with it; immediate, impartial and effective investigation by an independent body; the suspension from duty of police suspected or charged with serious human rights abuses pending the outcome of investigations.

3. **Forensic and medical examinations**: An independent and well-resourced forensic service should be established that is linked to the courts rather than the law enforcement forces. Forensic doctors should be provided with the training and resources necessary for the diagnosis of all forms of human rights violations. All training should be in accordance with the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (United Nations publication, Sales No. E.91.IV.1).

4. **Oversight bodies**: The mandate, resources and independence of the Police Ombudsman's office (*Ouvidoria da Policia*) should be strengthened in order to guarantee the credibility of the institution in monitoring allegations of individual abuses by police. The Ombudsman should be mandated to fully monitor all cases, through their whole passage in the criminal justice system and to transmit complaints of human rights abuses directly to the Public Prosecutor's Office.

5. **Witness Protection**: While Amnesty International recognizes the important step taken with the setting up of the PROVITA scheme in Rio de Janeiro, it has received reports that it lacked consistent funding in the past. For this reason steps should be taken to ensure the adequate protection of witnesses and relatives of victims, as well as lawyers, prosecutors and human rights defenders involved in cases of human rights violations. The authorities must endeavour to ensure that PROVITA has sufficient and consistent funds to ensure the protection of all those who are under threat as a result of reporting human rights violations.

6. **Prosecution**: The Public Prosecutor's Office or an investigating judge should be responsible for conducting investigations into allegations of abuses or criminal acts by state officials. A specialist human rights unit should be established in the state Public Prosecutor's Office to concentrate expertise and good practice with regard to the gathering of evidence in such investigations, collating information on patterns of abuses by state agents and mounting effective prosecutions for human rights violations under the appropriate law.

7. **Compensation**: All victims of crime, abuse of power and human rights violations and their dependents should be treated with compassion and respect. Victims of extrajudicial executions and other human rights violations and their dependents are entitled to obtain prompt reparation from the state including restitution, fair and adequate financial compensation, and appropriate medical care and rehabilitation. Redress procedures should be expeditious, fair, inexpensive and accessible. Unnecessary delay in the handling of victims' cases should be avoided.

8. **Police training**: There should be a complete reform of recruitment, training, refresher training, and professionalization of the police. The police should be given the resources and training needed to be able to do their job without resorting to human rights violations in order to get "results". This should include further research, training and investment into community-based policing projects.

9. **Official Condemnation**: Amnesty International has been particularly concerned by the fact that members of the authorities have been making public statements which have been seen as contributing to the rise in police killings. Amnesty International urges all those in authority to make unequivocal statements that human rights violations such as extrajudicial executions will not be tolerated under any circumstances and that those committing them will be punished according to the law.

10. **Federal Government**: It is vital that the National Secretariat for Public Security follow through on the promises of the government's public security manifesto and of the *Sistema Único de Segurança Púublica* (SUSP), Unified System for Public Security. It is also essential that all the elements of the federal government publicly and unequivocally support this process, ensuring the necessary financial investment, public support and political oversight to guarantee the implementation of fundamental public security reforms at state level. Furthermore the federal government must give urgent priority to the process of providing all Brazilians with effective security and defence of all their human rights.

Recommendations related to individual cases:

Vigário Geral

Amnesty International calls upon the Rio de Janeiro state and federal authorities:

- To make provision of full compensation and reparations to all survivors and dependents of victims of the Vigário Geral massacre a priority;
- To take all steps necessary to ensure that all pending trials related to the Vigário Geral massacre be completed in a swift, impartial and independent manner, in accordance with international standards;
- To ensure that any police officers who are awaiting trials in relation to the massacres remain suspended from active duty during this time;
- Where their lives are under threat, to ensure that all witnesses, survivors or relatives of victims of the massacre be accorded protection in accordance with their wishes.

Wagner dos Santos

Amnesty International calls upon the Rio de Janeiro state and federal authorities:

- To ensure that the full compensation process for Wagner dos Santos be completed as soon as possible, in full agreement with Wagner dos Santos;
- To take steps to facilitate and cooperate with all efforts to find him a safe and permanent place of residence, in accordance with his wishes.

Candelária

Amnesty International calls upon the Rio de Janeiro state and federal authorities:

- To provide full compensation for any further survivors and dependents of victims of the Candelária massacre.

Wallace da Costa Pereira, Borel, Senador Camará, Turano

Amnesty International calls upon the Rio de Janeiro state and federal authorities:

- To ensure the completion of full, prompt and impartial investigations, by an independent body, into all these killings and "disappearances", and that the results of these investigations be made public;
- To suspend from duty any police suspected or charged pending the outcome of investigations;
- To bring those found responsible by these investigations to justice;
- Where their lives are under threat, to ensure that all witnesses, survivors and relatives of victims of these killings and "disappearances" be accorded protection in accordance with their wishes;
- Where involvement of members of the police forces is proved in relation to any of these killings and "disappearances", to ensure full compensation and reparations be made to the survivors and relatives of victims of their crimes.

IN MEMORIAM

Candelária, 23 July 1993

Paulo Roberto de Oliveira, 11
Anderson Thome Pereira, 13
Marcelo Candido de Jesus, 14
Valderino Miguel de Almeida, 14
"Gambazinho", 17
"Nogento", 17
Paulo José da Silva, 18
Marcos Antonio Alves da Silva, 20

Vigário Geral, 29 August 1993

Adalberto de Souza, 40, rail worker
Amarildo Bahiense, 31, unemployed print worker
Cleber Alves Marro, 24, print worker
Clodoaldo Pereira, 23, food processing worker
Edmilson José da Costa, 23, mechanic
Fabio Pinheiro Lau, 18, porter
Guaraci de Oliveira Rodrigues, 33, nursing auxiliary
Helio de Souza Santos, 38, unemployed
Joacir Medeiros, 60, bar owner
José dos Santos, 47, locksmith
Luis Cláudio Feliciano, 28, metal worker
Paulo Roberto dos Santos Ferreira, 44, bus driver
Paulo Cesar Gomes, 35, furniture restorer

The Santos family

Gilberto Cardoso dos Santos, 61, retired
Jane da Silva Santos, 56, housewife
Lúcia Silva Santos, 34, seamstress
Lucinete Silva Santos, 27, dentist's receptionist
Lucineate Silva Santos, 26, metal worker
Luciano Silva Santos, 24, print worker
Rubia Santos, 18, print worker
Luciene Santos, 15, student

And all the victims of violence in Rio de Janeiro

1993-2003

APPENDIX I – The Right to Life and the use of lethal force in international law

The Right to Life under international law

This report is founded on the principle that the right to life – held to be the "Supreme Right" – is guaranteed in international law and must thus be implemented by States in law, policy and practice.[51] Article 6 of the International Covenant on Civil and Political Rights states:

> ***"Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."***

The Right to Life and the use of lethal force by the security forces

The deprivation of life by state authorities is deemed under human rights law to be a matter of the utmost gravity. Specific provisions therefore exist in international law to deal with the use of lethal force by the security forces.

With regard to the use of firearms by security forces, the UN Human Rights Committee requires that states must "prevent arbitrary killing by their own security forces" as well as preventing "deprivation of life by criminal acts". The requirement that any deprivation of life must not be "arbitrary" imposes a positive obligation on national governments to protect that right. This requires the state to act so as to ensure that:

- The law must strictly control and limit the circumstances in which a person may be deprived of his life by the security forces.
- Any action by the security forces which causes deprivation of life must be in accordance with the law, legitimate and proportionate to the threat posed.
- There are effective investigations of any deaths resulting from the use of force by the security forces.
- Members of the security forces who take life unlawfully are prosecuted.

The use of force in international law

In interpreting the right to life as guaranteed by Article 4 (1) of the American Convention of Human Rights, the Inter American Court of Human Rights has stated that no more force should be used than is absolutely necessary, even when the security forces are confronted with those who may be armed:

> ***"[W]without question, the State has the right and duty to guarantee its security. It is also indisputable that all societies suffer some deficiencies in their legal orders. However, regardless of the seriousness of certain actions and the culpability of the perpetrators of certain crime, the power of the State is not unlimited, nor may the State resort to any means to attain its ends. The State is subject to law and morality. Disrespect for human dignity cannot serve as the basis for any state action."***[52]

UN Standards on the use of force

Other international 'guidelines' have been formulated to regulate the use of force in police operations, including The the *Code of Conduct for Law Enforcement Officials* and the *United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*. They make the following provisions:

Necessity

The *Code of Conduct for Law Enforcement Officials* states that "Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty."[53]

Lethal force must be a last resort

The *United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (Basic Principles) expand the concept of necessity, stating that law enforcement officials shall as far as possible apply non-violent means before resorting to firearms, and that they should only do so where other means are ineffective.

Restraint and proportionality

If firearms are to be used, Basic Principle 5 requires the exercise of restraint in order to respond proportionately, minimize injury, respect human life, ensure medical attention is provided and notify relatives at the earliest possible moment.

Training and chain of command

The requirement to use lethal force only where necessary means that law enforcement officers must be trained appropriately, including to use force that is less than lethal in such circumstances. There is also the requirement for a proper command structure, as set out by the *United Nations Principles on the Effective Prevention and Investigation of Extra-Legal Arbitrary and Summary Executions*, which state:

> ***"In order to prevent extra-legal, arbitrary and summary executions, Governments shall ensure strict control, including a clear chain of command over all officials responsible for apprehension, arrest, detention, custody and imprisonment, as well as those officials authorised by law to use force and firearms."***[54]

Investigations of deaths at the hands of the security forces

International law requires a full and independent inquiry into deaths at the hands of law enforcement officers. The inquiry must be able to address its conclusions in terms of violations of the right to life. This requirement to investigate arises out of the positive obligation of states to protect the right to life as enshrined in international treaties such as the International Covenant on Civil and Political Rights. Where appropriate, members of the security forces found to have illegally violated the right to life, must be brought to justice, prosecuted and punished for their actions.

ENDNOTES

1. *Amnesty International Report 2003* (AI Index: POL 10/003/2003)

2. Brazil is a federative republic with 26 states and a federal capital. Individual states have a state Governor and state secretaries for public security, justice and other branches of government. Individual states have a large degree of autonomy.

3. The State Secretary for Public Security has overall responsibility for the administration of law enforcement.

4. Radio Carioca, 10 May 2003.

5. *O Estado de São Paulo* 13 May 2003.

6. Figures from the São Paulo police ombudsman's office, quoted in *Folha de São Paulo*, 17 June 2003.

7. "Death squads" are illegal groups, usually made up of off-duty military and civil police officers, who carry out unlawful killings, usually of alleged criminal suspects.

8. Brazil has four principal police forces: the federal police and the federal transport police responsible to the Ministry of Justice, and two state forces – the military police and the civil police.

9. Núcleo de Pesquisa e Análise Criminal, State Secretariat for Public Security. Study available on-line at www.novapolicia.rj.gov.br

10. US$325. The minimum salary in Brazil is R$240 – c.US$78.

11. Werneck & Rocha 1999 as referenced in '*Children of the Drug Trade*', Luke Dowdney – Viva Rio/ISER. Pub: 7 Letras Rio 2003 pg 89 .

12. Letalidade da Ação Policial no Rio de Janeiro, Ignácio Cano, ISER 1997

13. Greater Rio comprises the political areas of Capital, Baixada and Grande Niterói.

14. This term is not codified and therefore has no juridical value in Brazilian law.

15. Luke Dowdney '*Children of the Drug Trade*', Luke Dowdney – Viva Rio/ISER. Pub: 7 Letras Rio 2003 pg 86

16. *O Estado de São Paulo*, 20 June 1997

17. *O Globo* 20 June 19/6/97.

18. Please note that a government witness protection has been set up since the time of the massacres. See the section on witness protection in this report.

19. The case of Wagner dos Santos is detailed in *Brazil: The Candelária Massacre and Wagner dos Santos*, July 1995 (AI Index: AMR 19/11/95), July 1995, and *Brazil: Witness Protection: Wagner dos Santos* October 1995, (AI Index: AMR 19/24/95), October 1995.

20. No one has ever been charged with this second attempt on Wagner's life.

21. The payments are deductible from any future and final compensation settlements reached with the authorities.

22. *O Estado de São Paulo*, 23 June 2001

23. Darren Bender *Shadows on the Street* 1996

24. Letter from the Brazil desk officer at the Inter-American Commission to the grandmother of Elizabeth Cristina Borges de Oliveira Maia, 29 September 2000.

25. *O Dia*, 26 September 2000.

26. *Homicidio Doloso Qualificado*.

27. The authorities regularly carry out round-ups of street children, who are sent on to state institutions.

28. Diário Oficial, Estado do Rio de Janeiro, Poder Legislativo. 6 September 2001 Ano XXVII.Nº170. Parte II

29. No one has ever been brought to trial for the killings of the four policemen.

30. *Epoca* 24 August 1998

31. Crime Continuado. Código penal – Artigo 71

32. *O Globo* 18 July 2003

33. Mães de Acari, Uma História de Luta contra a Impunidade, Carlos Nobre 1994 Relume Dumará

34. See Amnesty International, *Brazil: Beyond Despair*, September 1994 (AI Index:AMR 19/15/1994) September 1994

35. *O Dia* 27 February 2002

36. *O Dia* 27 February 2002

37. *Jornal do Brasil* 7 March 2003

38. Radio Carioca 10 May 2003

39. *O Estado de São Paulo* 13 May 2003

40. Luke Dowdney '*Children of the Drug Trade*',– Viva Rio/ISER. Pub: 7 Letras Rio 2003 '*Children of the Drug Trade*', Luke Dowdney – Viva Rio/ISER. Pub: 7 Letras Rio 2003

41. Meeting with *Promotores* in the state *Ministério Público*, April 2002.

42. Código de Processo Penal, Capitúlo XI Art. 240 & 243

43. Information supplied by the Human Rights Commission of the Rio state legislative assembly

44. *O Estado de São Paulo* 11 January 2003

45. *O Globo* 11 January 2003

46. Interviews held with relatives of the victims in Borel by Amnesty International on 14 June 2003.

47. *Folha de São Paulo* 21 May 2003

48. Relative of Borel victim – 2ª Audiência Pública da Comissão de Defesa dos Direitos Humanos e Cidadania da Assembléia Legislativa do Estado do Rio de Janeiro. 28 May 2003.

49. *O Globo* 25 July 2003

50. Of the 6th Batallion, the same battalion responsible for the operation in Borel in April.

51. The Human Rights Committee (HRC) of the United Nations in its General Comment No. 1 on Article 6 has described it the right to life as "the supreme right" – GC 6 (16), Doc.A/37/40, pp. 93-94. Adopted July 1982.

52 Para 154 Velásquez Rodríguez case. 10 September 1996.

53 Adopted by General Assembly of the United Nations, 17 December 1979, resolutions 34/169 (Art. 3)

54 Paragraph 2 of the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal Arbitrary and Summary Executions